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JUN 13 2005

OFFICE OF PETITIONS

In re Application of
Douglas J. Cudney et al.
Application No. 10/665,601
Filed: September 22, 2003
Attorney Docket No. 3156-0119P

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:
: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(b)
:

This decision is in response to the second request for reconsideration filed May 25, 2005, under 37 CFR 1.47(b), in response to the decision mailed February 28, 2005, dismissing the petition filed February 17, 2005.

The petition is **GRANTED**.

The above-identified application was filed on September 22, 2003 as a continuation of parent application 09/335,897 and naming Douglas J. Cudney and Karen Breitbach as joint inventors. Petitioners seek status under 37 CFR 1.47 based on the fact that the declaration was sent to Mr. Cudney's and Ms. Breitbach's last known address and based on the fact that both Mr. Cudney and Ms. Breitbach verbally refused to sign the declaration, in spite of efforts to have the oath or declaration executed.

Comes now petitioner with the instant request for reconsideration with a request for a one month extension of time.

A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest, and
- (6) proof of irreparable damage.

With respect to requirements (1) and (2), proof that additional efforts were undertaken to forward a true copy of the application to the inventors to the last known address has been provided. It has also been shown that the package was undeliverable.

Additionally, David Anderson, has signed the oath or declaration in his capacity as CEO of the assignee Phoenix Performance Products, Inc.

All requirements under 37 CFR 1.47(b) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter will be referred to Technology Center 3729 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (517) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



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OFFICE OF PETITIONS

In re Application of
Dennis J. Cudney et al.
Application No. 10/665,601
Filed: September 22, 2003
For: CUSHIONING PADS AND THE FORMATION OF CUSHIONING PADS

Dear Mr. Cudney and Ms. Breitbach:

You are named as joint inventors in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as joint inventors.

As named inventors you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

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